

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

STACY ARNOLD,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 19-06137-CV-SJ-BP
CITY OF ST. JOSEPH,)	
ST. JOSEPH PUBLIC LIBRARY,)	
OFFICER REBECCA HAILEY (IN HER)	
PERSONAL AND PROFESSIONAL CAPACITY))	
)	
)	
Defendants)	

**SUGGESTIONS IN OPPOSITION TO DEFENDANTS’ MOTION FOR
ATTORNEY’S FEES**

COMES NOW, Plaintiff, Stacy Arnold, and presents these suggestions in opposition to Defendants’ motions for attorney’s fees.

Background

On January 19, 2020, Defendant St. Joseph Public Library and Defendants City of St. Joseph and Rebecca Hailey moved the Court for the attorney’s fees incurred by them in this action. Specifically, Defendants City of St. Joseph and Rebecca Hailey (hereinafter “the City Defendants”) request “that their attorney’s fees be taxed as costs against Plaintiff pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 54(d) in the amount of \$38,112.70” (ECF 105) and Defendant Library (hereinafter “the Library”) requests that “its attorneys’ fees be taxed as costs against Plaintiff pursuant to U.S.C. § 1988 and Fed. R. Civ. P. 54(d) in the amount of \$40,096.00” (ECF 106). On the City Defendants’ bill of costs (ECF 108), the city has handwritten “see attached

summary of attorney fees as prevailing party under 42 U.S.C. § 1988” under “other costs.” The Library has also added attorneys’ fees to “other costs” on the bill of costs it has set forth.

On January 20, 2020, Plaintiff received an email from counsel for Defendants, attached hereto as Exhibit A. In this email, opposing counsel jointly wrote that “[a]s the prevailing parties, Defendants are entitled to seek their costs incurred in defending against your claims. Defendants motions for costs in the form of attorney’s fees and their bill of costs were filed earlier this week. In total, the costs Defendants may be awarded exceed \$78,000.00...We are reaching to you to see if we could reach an agreement wherein Defendants would not pursue costs in exchange for your agreement to not file an appeal.”

Argument

Defendants are unentitled to attorney’s fees. “The purpose of the Civil Rights Attorney’s Fee Awards Act is to ensure effective access to the judicial process for persons with civil rights grievances, and accordingly, a prevailing plaintiff should ordinarily recover an attorney fee unless special circumstances would render such an award unjust.” *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983). A prevailing defendant, however, “may recover attorney fees only when the suit is vexatious, frivolous, or brought to harass or embarrass defendant.” *Id.* at n.2. *See also Fox v. Vice*, 568 U.S. 826, 836 (“Section 1988 allows a defendant to recover reasonable attorney’s fees incurred because of, but only because of, a frivolous claim.”). Plaintiff’s claims were *not* frivolous, vexatious, or brought to harass, and Defendants fail to present any assertion or argument whatsoever that they are entitled to attorney’s fees under this standard. Indeed, the Library’s typed—and the City Defendants’ handwritten—alleged entitlement to attorney’s fees as “prevailing party under 42 U.S.C. § 1988” on their bill of costs does not qualify as such an assertion or argument.

Counsel for Defendants make their living as defense attorneys. It is highly unlikely that Plaintiff's case is their first rodeo at § 1983 litigation, and equally unlikely that they are unaware that defendants may not seek attorney's fees under § 1983 simply because they are the prevailing party. Defendants present their motions for attorney's fees in bad faith. Their actions are inconsistent with Fed. R. Civ. P. 11(b) and instead consistent with an attempt to intimidate and harass Plaintiff in order to strategically deter her from filing an appeal should she otherwise choose to do so.

Plaintiff respectfully requests that Defendants' motions for attorney's fees (ECF 105, ECF 106) be promptly denied, that Defendants are penalized their actual costs, and for any other relief deemed just by the Court.

RESPECTFULLY SUBMITTED,

STACY ARNOLD, Plaintiff

/s/Stacy Arnold
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was filed electronically with the Clerk of the Court on February 2, 2021, to be served by operation of the Court's electronic filing system upon:

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